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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/17/2001

Steve Dispensa

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06/01/2006

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EXAMINER

BILGRAMI, ASGHAR H

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,422

Applicant(s)

DISPENSA, STEVE

Examiner

Asghar Bilgrami

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) See Continuation Sheet is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) See Continuation Sheet is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 3.Claim1- 11, 13-16, 18-19, 27-41, 43-46, 48-49, 57-70, 72-75, 77-78, 86-104, 106-107, 115-133, 135-136, 144-161, 163-164 & 172-175 .

Continuation of Disposition of Claims: Claims rejected are 1- 11, 13-16, 18-19, 27-41, 43-46, 48-49, 57-70, 72-75, 77-78, 86-104, 106-107, 115-133, 135-136, 144-161, 163-164 & 172-175 .



DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 20 September 2005 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1- 11, 13-16, 18-19, 27-41, 43-46, 48-49, 57-70, 72-75, 77-78, 86-104, 106-107, 115-133, 135-136, 144-161, 163-164 & 172-175 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groath et al (U.S. 6,571,285) and Dev et al (U.S. 5,751,933).

4. As per claims 1, 12, 31, 42, 61, 68, 71, 90, 119 & 148 Groath disclosed a performance management system for providing performance information of a communication network

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(col.10, lines 1-5), the performance management system comprising: a reporting system configured to generate and transmit a graphical overview of the communication network to a user system, process the instruction to determine the performance information, generate a graphical format of the performance information (col.35, lines 10-15), and transmit the graphical format of the performance information from the performance management system to the user system (col.10, lines 5); and a database system configured to store the performance information (col.10, lines 15-24) and the graphical format of the performance information (col.11, lines 43-62){Groath disclosed that the collected performance data is stored in the database and is then conveyed graphically to disclose the availability of the network, hence the performance data has to be stored in some form of graphical format in the database (col.10 on lines 21-24) . However Groath did not explicitly disclose, receive an instruction to request the performance information for a selected region of the communication network from a user system. In the same filed of endeavor Dev disclosed receive an instruction to request the performance information for a selected region of the communication network from a user system (co.2, lines 35-40, col.5, lines 20-38, col.12, lines 42-67 & col.12, lines1-9).

At the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate presenting performance information relating to a selected region as disclosed by Dev in the system of providing performance management information of a communication network as disclosed by Groath in order to make the system more versatile and robust by giving the user the option to target the appropriate areas of the network that need to be closely analyzed for performance.

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5. As per claim 2, 32, 62, 91, 120 & 149 Groath-Dev disclosed the method of claim 1 wherein the graphical format is a web page (col.69, lines 34-40 & col.91, lines 50-54).
6. As per claims 3, 33, 63, 92, 121 & 150 Groath-Dev disclosed the method of claim 1 wherein the graphical format is a report (col.35, lines 10-15).
7. As per claims 4, 34, 64, 93, 122 & 151 Groath-Dev disclosed the method of claim 1 wherein the graphical format is a screen (col.69, lines 53-55 and also see figures 23-28).
8. As per claims 5, 35, 65, 94, 123 & 152 Groath-Dev disclosed the method of claim 1 wherein processing the instruction to determine the performance information comprises retrieving the performance information (col.13, lines 8-51).
9. As per claims 6, 36, 66, 95, 124 & 153 Groath-Dev disclosed the method of claim 5 wherein retrieving the performance information is from a probe device (col.14, lines 12-26 & col.18, lines 5-10).
10. As per claims 7, 37, 67, 96, 125 & 154 Groath-Dev disclosed the method of claim 6 wherein retrieving the performance information from the probe device comprises: generating and transmitting a message to request performance information from the probe device; and receiving the performance information from the probe device (col.18, lines 5-40).

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11. As per claims 8, 38, 97, 126 & 155 Groath-Dev disclosed the method of claim 5 wherein retrieving the performance information is from a memory in the performance management system (See Table 39 from columns 167 to 170).

12. As per claims 9, 39, 69, 98, 127 & 156 Groath-Dev disclosed the method of claim 1 wherein processing the instruction to determine the performance information comprises calculating the performance information (col.25, lines 66-67 & col.26, lines 1-5).

13. As per claims 10, 40, 70, 99, 128 & 157 Groath-Dev disclosed the method of claim 1 further comprising monitoring the performance information in the communication network (col.10, lines 1-14).

14. As per claims 11, 41, 100 & 129 Groath-Dev disclosed the method of claim 1 further comprising storing the performance information in memory of the performance management system (col.18, lines 5-50).

15. As per claims 13, 43, 72, 101, 130 & 158 Groath-Dev disclosed the method of claim 1 wherein the communications network uses wireless signals (col.1, lines 31-39).

16. As per claims 14, 44, 73, 102, 131 & 159 Groath-Dev disclosed the method of claim 1 wherein the communications network uses broadband wireless signals (col.1, lines 31-39).

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17. As per claims 15, 45, 74, 103, 132 & 160 Groath-Dev disclosed the method of claim 1 wherein the performance information comprises a number of modems (col.31, lines 15-24).

18. As per claims 16, 46, 75, 104, 133 & 161 Groath-Dev disclosed the method of claim 1 wherein the performance information comprises forward error correction information (col.51, lines 60-67 & col.52, lines 1-2).

19. As per claims 18, 48, 77, 106, 135 & 163 Groath-Dev disclosed the method of claim 1 wherein the performance information comprises number of bytes (See figures 14 & 15 and col.107 & 108 - table-18).

20. As per claims 19, 49, 78, 107, 136 & 164 Groath-Dev disclosed the method of claim 1 wherein the performance information comprises speed of transmission (col.107, table 18).

21. As per claims 27, 57, 86, 115, 144 & 172 Groath-Dev disclosed the method of claim 1 wherein the instruction comprises a region of the communication network (col.10, lines 10-22 & figure 18).

22. As per claims 28, 58, 87, 116, 145 & 173 Groath-Dev disclosed the method of claim 1 wherein the instruction comprises an Internet Protocol address (col.173, tables 40 & 41).

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23. As per claims 29, 59, 88, 117, 146 & 174 Groath-Dev disclosed the method of claim 1 wherein the instruction comprises a user identification (col.72, lines 37-67 & col.73, lines 1-37).

24. As per claims 30, 60, 89, 118, 147 & 175 Groath-Dev disclosed the method of claim 1 wherein the instruction comprises a time or date (col.18, lines 15-17 & col.20, lines 1-15).

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 17, 47, 76, 105, 134 & 162 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groath et al (U.S. 6,571,285) and Moura et al (U.S. 6,411,606).

27. As per claims 17, 47, 76, 105, 134 & 162 Groath disclosed the method of claim 1. However Groath did not explicitly disclose wherein the performance information comprises signal to noise ratio. Moura disclosed wherein the performance information comprises signal to noise ratio (col.10, lines 13-15).

Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate signal to noise ratio parameter taught by Moura as a part of the

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performance category in the performance information system taught by Groath to facilitate in providing a full spectrum view of a communication network for analysis.

28. Claims 20-26, 50-56, 79-85, 108-114, 137-143 & 165-171 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groath et al (U.S. 6,571,285) and Opoczynski (U.S. 5,519,830).

29. As per claims 20, 50, 79, 108, 137 & 165 Groath disclosed the method of claim 1. However Groath did not explicitly disclose wherein the performance information comprises channel information for a plurality of channels. Opoczynski disclosed wherein the performance information comprises channel information for a plurality of channels (col.3, lines 49-58). Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate channel information for a plurality of channels taught by Opoczynski as a part of the performance category in the performance information system taught by Groath to facilitate in providing a full spectrum view of a communication network for analysis.

30. Claims 21, 51, 80, 109, 138 & 166 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groath et al (U.S. 6,571,285), Opoczynski (U.S. 5,519,830) and Moura et al (U.S. 6,411,606).

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31. As per claims 21, 51, 80, 109, 138 & 166 Groath and Opoczynski disclosed the method of claim 20. However Groath and Opoczynski did not disclose wherein the channels are upstream. Moura disclosed wherein the channels are upstream (col.5, lines 43-49).

Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate upstream channel taught by Moura as a part of the performance category in the performance information system taught by Groath- Opoczynski to facilitate in providing a full spectrum view of a communication network for analysis.

32. As per claims 22, 52, 81, 110, 139 & 167 Groath and Opoczynski disclosed the method of claim 20. However Groath and Opoczynski did not disclose wherein the channels are downstream. Moura disclosed wherein the channels are downstream (col.5, lines 43-48).

Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate downstream channel taught by Moura as a part of the performance category in the performance information system taught by Groath-Opoczynski to facilitate in providing a full spectrum view of a communication network for analysis.

33. As per claims 23, 53, 82, 111, 140 & 168 Groath and Opoczynski disclosed the method of claim 20. However Groath and Opoczynski did not disclose wherein the channel information comprises a state of one of the channels. Moura disclosed wherein the channel information comprises a state of one of the channels (col.2, lines 39-60).

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Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate information comprising a state of one of the channels taught by Moura as a part of the performance category in the performance information system taught by Groath-Opoczynski to facilitate in providing a full spectrum view of a communication network for analysis.

34. As per claims 24, 54, 83, 112, 141 & 169 Groath and Opoczynski disclosed the method of claim 20. However Groath and Opoczynski did not disclose wherein the channel information comprises a change in a state of one of the channels. Moura disclosed wherein the channel information comprises a change in a state of one of the channels (col.2, lines 58-64).

Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate information comprising change in state of one of the channels taught by Moura as a part of the performance category in the performance information system taught by Groath-Opoczynski to facilitate in providing a full spectrum view of a communication network for analysis.

35. As per claims 25, 55, 84, 113, 142 & 170 Groath and Opoczynski disclosed the method of claim 20. However Groath and Opoczynski did not disclose wherein the channel information comprises a number of messages transmitted. Moura disclosed wherein the channel information comprises a number of messages transmitted (col.2, lines 38-60).

Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate number of messages transmitted in channel information taught by

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Moura as a part of the performance category in the performance information system taught by Groath-Opoczynski to facilitate in providing a full spectrum view of a communication network for analysis.

36. As per claims 26, 56, 85, 114, 143 & 171 Groath and Opoczynski disclosed the method of claim 20. However Groath and Opoczynski did not disclose wherein the channel information comprises a time in a state of one of the channels. Moura disclosed wherein the channel information comprises a time in a state of one of the channels (col.2, lines 58-61).

Therefore at the time the invention was made it would have been obvious to one in the ordinary skill in the art to incorporate a time in a state of one of the channels in channel information taught by Moura as a part of the performance category in the performance information system taught by Groath-Opoczynski to facilitate in providing a full spectrum view of a communication network for analysis.

Response to Arguments

37. Applicant's arguments filed 28 March 2005 have been fully considered but they are not persuasive.

38. In response to applicant's arguments against the references individually one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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39. The applicant argued, “Groath does not teach or suggest storing a graphical format of performance information, as provided for in claims 1, 31, 61, 90, 119 and 148.

40. As to applicant’s arguments Groath disclosed a database system configured to store the performance information (col.10, lines 15-24) {“The data collected on the status of the network is manipulated and stored in a database.”} and the graphical format of the performance information (col.11, lines 43-62){Groath disclosed that the collected performance data is stored in the database and is then conveyed graphically to disclose the availability of the network, hence the performance data has to be stored in some form of graphical format in the database to be conveyed graphically later (col.10 on lines 21-24) figures 18, 23-29.

Conclusion

41. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AB

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